

OLC 2061
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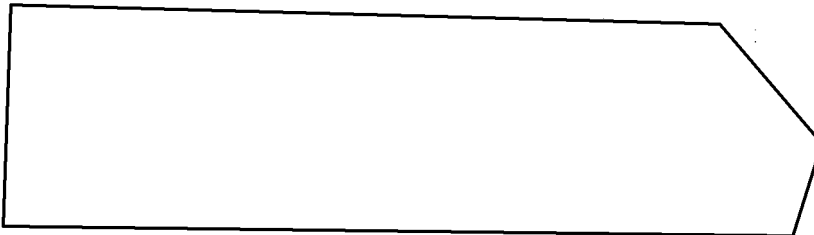
OLC: 75-2909

MEMORANDUM FOR THE RECORD

SUBJECT: Joint Hearings, Biomedical and Behavioral Human-use
Experimentation

1. On 7 November 1975 Messrs Carl Duckett, Dr. Sayre Stevens, George Cary and myself appeared before an open joint hearing of the Senate Judiciary Subcommittee on Administrative Practice and Procedure and Labor and Public Welfare Subcommittee on Health. Senator Edward M. Kennedy was in the chair and was joined by Senator Richard Schweiker. Senator Jacob K. Javits remained only long enough to make a statement supporting the Legislation. Senators Strom Thurmond and Charles Mathias made a brief appearance but did not remain for the hearing.

2. There were 5 witnesses before Agency representatives were called to testify:



Following the Agency's presentation, DOD representatives were called to testify. Their testimony dealt exclusively as to whether DOD supported the bill. They replied that the three services did, but OMB did not. Following were DOD witnesses:

General Kenneth Dirk - U. S. Army
Assistant Surgeon General for Research and Development

Lt. Colonel William G. Wisecup - U. S. Air Force
Program Manager, Directorate of Life Sciences
Office of Scientific Research

Captain E. Brodine - U. S. Navy
Commanding Officer, Naval Medical Research & Development Command

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3. The following were the major points made during the Agency's testimony:

A. Senator Kennedy opened the hearing by explaining that he was not investigating the Agency. The Subcommittees' only interest was past human-use experimentation as a guide for the future. He was not interested in exposing names or classified activities.

B. Senator Kennedy made a point of the Agency's refusal to declassify IG documents and noted that such documents were released under FOI. Mr. Duckett read the DCI's statement of this matter and explained that the Agency had provided documents to the Subcommittee. The only question was declassification of some of them for publication and that this issue was not closed. Further, the Agency was prepared to testify on the substance on the IG reports in open session.

C. Senator Kennedy emphasized that his Subcommittee had an extremely difficult time in getting information from the Agency. Duckett explained that the Agency had other things to do as well and the fact that we made 11th hour release of information he desired was evidence of our efforts to cooperate.

D. Senator Kennedy noted that there was an inconsistency between our answer to his questions and our IG report. He stressed the difference between description of unwitting test subjects which we had described as part of the "drug culture" and the following: Some subjects have been informers or members of suspect criminal elements from whom the FBI has obtained results of operational value through the tests. On the other hand, the effectiveness of the substances on individuals at all social levels, high and low, native American and foreign, is of great significance and testing has been performed on a variety of individuals within these categories.

E. Senator Schweiker wanted to know how many people were tested on an unwitting basis in this project. Duckett said he had no idea. Schweiker mentioned a radio broadcast indicated as many as 7,000 people were tested by the Agency.

F. Senator Schweiker wanted to know why we had not interviewed Dr. Gottlieb to find out more about this program so we could help people who might have suffered ill effects from the testing. Duckett said it was the DCI's policy not to interview retirees because of the current investigations of the Senate and House Select Committees. The DCI felt that such interviews might be misconstrued. Dr. Stevens was asked to submit a paper from the point of view of the administrative practices and procedures on Agency investigation of its own programs, including the calling back of retirees for interviews.

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G. Senator Schweiker wanted an explanation why the Agency would continue a program of unwitting testing [redacted]. He made reference to the DCI reprimand of the individuals involved and the DCI's request that a special board be set up to review such activities. He wanted to know whether such a board was established.

H. Senator Kennedy pressed very hard to get an expression from us as to whether we supported his bill or not. Senator Kennedy sympathized with the Agency's desire for non-involvement of the DCI as a member of the Commission. He agreed with our reasoning .

Follow-Up Actions:

A. A paper on interviews of former employees as a check of administrative practices.

B. A paper on the technical changes in the bill.

C. Determine whether a separate panel or board was set up in 1954 following a reprimand of those involved in the Olsen case.

[redacted]

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Associate Legislative Counsel

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